

APPEAL NO. 020539
FILED APRIL 3, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 20, 2002. The hearing officer resolved the disputed issues by concluding that the appellant (claimant) did not sustain a compensable injury and that, because there is no compensable injury, there can be no resulting disability. The claimant appealed, essentially arguing that the evidence presented at the CCH established he sustained a compensable injury. In its response, the respondent (carrier) replied that the determinations of the hearing officer were supported by the great weight of the evidence and should be affirmed.

DECISION

Affirmed.

The existence of a compensable injury is a fact issue for the hearing officer to decide. Conflicting evidence was presented in this case. The claimant testified that he was injured while working and that his injury was witnessed by his coworkers. However, in both recorded and written statements in evidence, the claimant's coworkers denied witnessing any injury and stated they were unaware of any injury the claimant received on the job. Also in evidence was an injury sheet of the employer signed by the claimant indicating that he received no injury on _____. The medical evidence established that the claimant sustained damage or harm to the physical structure of his body. However, the finder of fact may believe that the claimant has an injury, but disbelieve the claimant's testimony that the injury occurred at work, as claimed. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ).

It is the hearing officer, as the sole judge of the weight and credibility of the evidence (Section 410.165(a)), who resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did

not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **PETROSURANCE CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**ROBERT CARLAN LEE
PETROSURANCE CASUALTY COMPANY
2301 E. LAMAR BLVD., SUITE 362
ARLINGTON, TEXAS 76006.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Terri Kay Oliver
Appeals Judge